

STATE OF MICHIGAN  
COURT OF APPEALS

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CORDELL D. WYATT and SUZANNE M.  
WYATT, Individually and as Next Friend of  
BIANCA WYATT, ALICIA WYATT,  
CHENTELLE WYATT, and MICHAEL  
SANDUSKY, Minors,

Plaintiffs-Appellees,

v

SERGEANT JOHN BLAIR, OFFICER  
ANTHONY CHICKO, CORPORAL JON  
GERSKY, and OFFICER ROBERT ROBINSON,

Defendants-Appellants,

and

SERGEANT HAROLD STOCKTON, DEPUTY  
MICHAEL ROYAL, DEPUTY MARK GRANT,  
DEPUTY ALLEN BERNZANSKY, DEPUTY  
MICHAEL PENTSIL, DEPUTY DAVID DE  
SAUTELS, OFFICER HUSSAIN FRAHAT,  
OFFICER WARREN JONES, SERGEANT  
COAGLIO, OFFICER CAROLYN HUGGINS,  
OFFICER GORDY MAY, STATE OF  
MICHIGAN, COUNTY OF WAYNE, CITY OF  
TAYLOR, TOWNSHIP OF BROWNSTOWN, and  
CITY OF ROMULUS,

Defendants.

UNPUBLISHED

August 1, 2006

No. 259750

Wayne Circuit Court

LC No. 02-212713-NI

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Before: Smolenski, P.J., and Hoekstra and Murray, JJ.

SMOLENSKI, P.J. (*concurring*).

I concur with the majority's analyses and conclusions.

To the casual observer reflecting on the events of this evening with the benefit of hindsight, the actions of the officers might seem unjustified. Indeed, it seems almost absurd that

several officers, including some from defendants' police department, would engage the family in a conversation on their deck while searching for a potentially dangerous suspect, then order the family into their home only to order them out again at gunpoint mere seconds later. It is also peculiar that the officers determined that there was no need to handcuff Suzanne, who was the only Caucasian family member, and yet decided to handcuff the other members of the Wyatt family.<sup>1</sup> It is particularly striking that the officers felt the need to order eleven-year-old Chentelle, who was clothed only in a nightgown with no socks or shoes, to her knees and handcuff her before escorting her to the front of the house. Nevertheless, although these actions might seem unjustified in hindsight, this Court must judge the officers' actions "from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Graham v Connor*, 490 US 386, 396; 109 S Ct 1865; 104 L Ed 2d 443 (1989); see also *VanVorous v Burmeister*, 262 Mich App 467, 480-481; 687 NW2d 132 (2004) (noting that the actions of officers must be judged under a reasonable person standard and considering the totality of the circumstances). Under this standard and given the facts of this case, the officers' actions cannot be said to be without justification.

Testimony established that there might have been as many as twenty officers from several different departments in the vicinity of the Wyatt home. These officers were responding with limited information to a confusing, potentially dangerous, and rapidly evolving situation. Adding to this tension and chaos, some of the officers had earlier been fired upon while pursuing the robbery suspects. Under these facts, it is understandable that the officers would draw their weapons and take other precautions after the canine unit indicated that a suspect might be in the vicinity. Furthermore, although there is evidence that officers from defendants' police department actually spoke with the Wyatt family on the deck moments before the events in contention, plaintiffs failed to establish that these officers were the same officers who later ordered the family out of the house and handcuffed them. Therefore, it was reasonable for defendants to treat Cordell and Michael as potential suspects. Further, under the facts of this case, an officer might reasonably conclude that securing the children before moving them to a safer location would be in both the officers' and children's best interests.

For these reasons, I cannot conclude that the officers' actions were unjustified. Therefore, I concur with the majority's conclusion that defendants were entitled to summary disposition of all plaintiffs' claims based on governmental immunity.

/s/ Michael R. Smolenski

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<sup>1</sup> Although Aleshia was never handcuffed, there is testimony that indicates that an officer might have tried to handcuff her.